

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TATYANA EVGENIEVNA
DREVALEVA,

Plaintiff,

v.

THE U.S. IMMIGRATION &
NATURALIZATION SERVICE,

Defendant.

Case No. [20-cv-04493-JD](#)

**ORDER REVOKING PLAINTIFF'S
IFP STATUS**

In Tatyana Drevaeva's pending appeal, the Ninth Circuit made a limited referral back to this Court to determine whether a prior grant of in forma pauperis status should continue, or whether the appeal is frivolous or taken in bad faith. Dkt. No. 13.

An indigent party who cannot afford the expense of pursuing an appeal may file a motion for leave to proceed in forma pauperis. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). Pursuant to Federal Rule of Appellate Procedure 24(a), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." The party must attach an affidavit that (1) shows in detail "the party's inability to pay or to give security for fees and costs," (2) "claims an entitlement to redress," and (3) "states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1). But even if a party provides proof of indigence, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). An appeal is in "good faith" where it seeks review of any issue that is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). An issue is "frivolous" if it has "no arguable basis in fact or law." *See O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990).


1 The appeal is frivolous. Drevaleva's complaint seeks to compel the United States
2 Citizenship and Immigration Services to posthumously grant permanent residency to Valentina
3 Volkova, an individual who moved to the United States from Ukraine and died before her Green
4 Card interview. Dkt. No. 1. But Drevaleva, who was a friend of Volkova's, cannot plausibly
5 allege that she meets the requirements for the extraordinary remedy of mandamus relief. *See* Dkt.
6 No. 8 at 2 (citing *Lowry v. Barnhart*, 329 F.3d 1019, 1021 (9th Cir. 2003); *Patel v. Reno*, 134 F.3d
7 929, 931 (9th Cir. 1998)). Drevaleva's Article III standing for this action is also highly
8 questionable.

9 Plaintiff's action has no arguable basis in fact or law, and her in forma pauperis status is
10 consequently revoked. The Clerk is requested to forward this order to the Ninth Circuit in Case
11 No. 20-17522.

12 **IT IS SO ORDERED.**

13 Dated: January 25, 2021

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JAMES DONATO
United States District Judge